

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**OUTMEMPHIS; MICHELLE )  
ANDERSON; JANE DOE 2; )  
JANE DOE 3; and JANE DOE 4, )**

**Plaintiffs,**

**v.**

**BILL LEE, in his official capacity as )  
Governor of Tennessee; JONATHAN )  
SKRMETTI, in his official capacity as )  
Attorney General and Reporter of )  
Tennessee; DAVID RAUSCH, in his )  
official capacity as Director of the )  
Tennessee Bureau of Investigation; )  
and FRANK STRADA, in his official )  
capacity as Commissioner of the )  
Tennessee Department of Correction, )**

**Defendants.**

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**UNITED STATES OF AMERICA, )**

**Plaintiff,**

**v.**

**STATE OF TENNESSEE, and )  
TENNESSEE BUREAU OF )  
INVESTIGATION, )**

**Defendants.**

**Case Nos.     2:23-cv-2670  
                  2:24-cv-02101**

**Chief Judge Lipman**

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**MEMORANDUM IN SUPPORT OF  
MOTION FOR EXTENSION OF TIME TO FILE  
MOTION FOR LEAVE TO FILE REPLY**

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The State Entities move under Fed. R. Civ. P. 6(b) and Local Rule 7.2(c) for a 14-day extension to file a motion for leave to reply in support of their Motion for Certification.

Good cause exists to grant the extension. DOJ opposed the State Entities' Motion for Certification on two grounds, arguing (1) there is not a substantial ground for difference of opinion and (2) interlocutory appeal would not materially advance the litigation because the private plaintiffs in *OUTMemphis* would still proceed with discovery during an interlocutory appeal. (Dkt. 53, at 2-3, 13-14.) Half of DOJ's argument rests on the assumption that the *OUTMemphis* plaintiffs will be conducting discovery and summary judgment during an interlocutory appeal in this case.

The State Entities should be granted a short extension of time to bring more certainty to whether that assumption is true. Public Chapter 545, which amends the Registration Act, took effect July 1, 2024. Aggravated prostitution is no longer a "sexual offense" or "violent sexual offense." Tenn. Code Ann. § 40-39-202. The parties in *OUTMemphis* have continued highly productive conversations about resolving some claims in that case that relate to the amendment, and they are optimistic they will be able to announce a resolution in short order. The State Entities believe it is highly likely the fruit of those continuing negotiations will substantially affect the issues presented by their Motion for Certification. It is prudent to wait two weeks while the amendment is implemented and while discussions continue to clarify the landscape of these suits. If the State Entities are forced to respond now, before the dust settles, the Court will either miss the benefit of the actual facts or be asked to entertain supplemental briefing on the motion.

DOJ will not be prejudiced by the extension. The State Entities have sought certification before this Court issues its order on their motion to dismiss to avoid the delay that would result from seeking an amended order after its issuance. *See Milbert v. Bison Laboratories, Inc.*, 260 F.2d 431, 435 (3d Cir. 1958) (holding that the certification must be contained in the order sought to be appealed). The Court has not yet ruled on the State Entities' Motion to Dismiss, and, in fact,

the briefing loop on that motion closed less than a month ago. (Dkt. 48.) Because the Court can decide the Motion to Dismiss, and, if not moot, the Motion for Certification within the same order, it is unlikely any delay of the case will result from this extension. Indeed, it is only this Court's ruling on the State Entities' requests for dismissal and certification that could be delayed; that could not prejudice DOJ.

Extending the State Entities' deadline by two weeks will give the Court the benefit of clarity without prejudicing any party. And the State Entities will still be required to move for leave to reply, allowing the Court the opportunity to determine at that time whether a reply is beneficial. Local Rule 7.2(c). Good cause exists to grant a 14-day extension to July 17, 2024.

#### **CERTIFICATE OF CONSULTATION**

Counsel for Defendants consulted with counsel for the United States about this request via email on June 28, 2024. Counsel for the United States notified the undersigned of their opposition to the request on July 1, 2024, without articulating a basis.

Respectfully submitted,

JONATHAN SKRMETTI  
Attorney General and Reporter

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### CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was filed and served via the Court's electronic filing system on this the 2nd day of July 2024, upon:

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